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| 10/535,759 | 05/20/2005 | Rudolf Braungardt | BRAUNGARDT, R. ET AL-2 PC | 7721 |
| 25889 | 7590 | 02/28/2008 | EXAMINER | |
| COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576 | | | BODAWALA, DIMPLE N | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---------------------------------------|--|--|
| Office Action Summary | Application No. 10/535,759 | Applicant(s) BRAUNGARDT ET AL. | |
| | Examiner DIMPLE N. BODAWALA | Art Unit 1791 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

- Claims 2-23 are pending.

In view of the amendment, filed on 12/6/2007 following rejection/objection are withdrawn as a reason of record from the previous office action, mailed on 8/8/2007.

- Rejection of claims 7, 8, 17-19 and 24 under 35 USC 102 (e) as being anticipated by Braungardt et al. (US Applicant Publication No. 2005/0238751).
- Rejection of claims 4-9 and 22-24 under 35 U S C 102(b) as being anticipated by Owen (U S Patent No. 6,119,804).
- Rejection of claims 2 and 4-6 under 35 U S C 103(a) as being unpatentable over Braungardt et al. (US Applicant Publication No. 2005/0238751) in view of Van de Caveye (U S Patent No. 4,332,540).
- Rejection of claim 14 under 35 U S C 103(a) as being unpatentable over Braungardt et al. (US Applicant Publication No. 2005/0238751) in view of Kobayashi (U S Patent No. 6,162,041).

- Allowable subject matter for claims 3, 10-13, 15-16 and 20-21.

⇒ The indicated allowability of claims 3, 10-13, 15-16 and 20-21 is withdrawn in view of the newly discovered reference(s) to Silva et al. (U S Patent No. 848,697), Henry (EP 0 182 619 A2), McCormick (U S Patent No. 3,674,396), Kayser (WO 86/06316), and Lebherz (U S Patent No. 3,802,659). Rejections based on the newly cited reference(s) follow.

Claim Objections

1. Claims 8 and 19 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 8 is objected because claim 8 discloses a process limitation as an apparatus limitation for producing a block. It fails to further limit the subject matter. Furthermore, claim 19 is objected because claim 19 discloses the limitation of formation of relief in the side walls, but fails to further limit the subject matter. As we know that with regard to the claim recitation regarding the method of forming the apparatus such relate

only to the method of producing the claimed apparatus, which does not impart the patentability to the apparatus claim. Note that determination of patentability is based on the product apparatus itself, *In re Brown*, 173 USPQ 685, 688, and the patentability of the product does not depend on its method of production, *In re Pilkington*, 162 USPQ 145, 147, *In re Thorpe*, 227 USPQ 964 (CAFC 1985). Note also that it is Applicant's burden to prove that an unobvious difference exists, *In re Marosi*, 218 USPQ 289, 292, 293 (CAFC 1983), and Applicant must show that different methods of manufacturing product having inherently different characteristics, *Ex Parte Skinner*, 2 USPQ2d 1788, See MPEP 2113.

New Ground of Rejection

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16, 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 16 is vague and indefinite because it is unclear how the slot and core holder continue into the cover plate. Claim 16 is further vague and

indefinite because it is unclear what is an upward by means of a sheet-metal cover arrangement that is attached into the cover plate.

4. Claim 21 is vague and indefinite because it is unclear what means of a flange arrangement, and also how the flange is arranged (means in which position the flange arranged) to provide positive lock means. If there is a specific arrangement for flange, Applicant is advised to clarify the arrangement of the flange to provide a positive lock means. Claim 21 is further vague and indefinite because it is unclear what the means of outside, in which the side wall against the counter-surfaces of a flange arrangement.

5. Claim 21 recites the limitations "the inside" in line 21 and "the outside" in line 23. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry (EP 0 182 619 A2) in view of Kayser (WO 86/06316).
3. Henry ('619) discloses an apparatus for manufacturing a building block which comprises a mold box (1) as an insert for determining a contour of a molded block such as a rectangular shape; and an insert support (6) for

holding an insert (1) (See figure 1). It further teaches that the mold box (1) means an insert is vibrated, which can be understandable that the apparatus comprises a vibrated base plate (2) (See page 1, lines 19-22). It further teaches that the insert support (6) comprises a rigid twist resistant hollow case having a base plate (2) for forming a bottom portion of the case and cover plate (5) for forming a top portion of the case (See page 1 lines 16-22), and a plurality of side walls connecting the base plate (2) and the top plate (5) (See figure 1). Figure 1 further teaches that the insert (1) is horizontally supported by the edges and vertically supported on the base plate (2). It further discloses a plurality of spacer elements (4) inserted within the case, at a distance from the insert between the cover and base plate (See figure 1). Figure 1 further teaches that the spacer elements (4) are supported on the inner surface of the cover plate and the base plate, and project into opening in the cover plate with the projection (See figure 2). Figure 2 further shows the position of the spacer elements near by the top portion which can be understandable to weld the spacer elements in the cover plate. Figure 1 further teaches that the insert support (6) itself on the inner surface of the base plate. Figure 1 further teaches that the insert support is attached to the base plate, which can be understandable that the insert is also attached to the base pate. Figure 1 further teaches that the insert (1) is releasably

inserted into the case, in destruction-free manner. Figure 1 further teaches that the insert projects beyond the cover plate and that its upper edge lies essentially in a plane with the upper surface of that cover plate arrangements. It further teaches that the mold box and transfer plate or base plates are made of metal (See page 6, lines 19-24), which can be understandable that the top plate is also made of metal. Figure 1 further teaches that the insert (1) that projects beyond the cover plate (5) has an under cut and that an edge of the sheet metal cover (5) engages in the under cut. It further teaches that the elastic damping material inserted between the insert support (6) and insert (1) (See Page 1 lines 14-18; figures 2A, 2B). Figure 1 further teaches that the insert (1) has a slot for accommodating a core holder (3), where in the core holder (3) is supported downward in the slot of the insert.

4. Claim 8 is objected because claim 8 discloses a process limitation as an apparatus limitation for producing a block. It fails to further limit the subject matter. As we know that with regard to the claim recitation regarding the method of forming the apparatus such relate only to the method of producing the claimed apparatus, which does not impart the patentability to the apparatus claim. Note that determination of patentability is based on the product apparatus itself, *In re Brown*, 173 USPQ 685, 688, and the

patentability of the product does not depend on its method of production, *In re Pilkington*, 162 USPQ 145, 147, *In re Thorpe*, 227 USPQ 964 (CAFC 1985).

Note also that it is Applicant's burden to prove that an unobvious difference exists, *In re Marosi*, 218 USPQ 289, 292, 293 (CAFC 1983), and Applicant must show that different methods of manufacturing product having inherently different characteristics, *Ex Parte Skinner*, 2 USPQ2d 1788, *See MPEP 2113*.

5. Henry ('619) discloses all claimed structural limitations as discussed above. It further teaches that the top plate of the case having plurality of recesses, but fails to teach or suggest that the bottom plate comprises plurality of recesses.

6. Kayser ('316) discloses sealing apparatus comprises top plate (1), bottom plate (5), insert (2) and insert support (7), wherein top plate and bottom plate having a plurality of holding means (3,4) as a plurality of depressions for holding insert (2) (see figure 2).

7. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Henry ('619) b providing a plurality of recesses or depressions in the bottom plate for accommodating an insert within the insert support during the molding operation as suggested by Kayser ('316).

8. Claims 2-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry (EP 0 182 619 A2) in view of Kayser (WO 86/06316) further in view of McCormick (U S Patent No. 3,674,396).

9. Henry ('619) discloses an apparatus for manufacturing a building block which comprises a mold box (1) as an insert for determining a contour of a molded block such as a rectangular shape; and an insert support (6) for holding an insert (1) (See figure 1). It further teaches that the mold box (1) means an insert is vibrated, which can be understandable that the apparatus comprises a vibrated base plate (2) (See page 1, lines 19-22). It further teaches that the insert support (6) comprises a rigid twist resistant hollow case having a base plate (2) for forming a bottom portion of the case and cover plate (5) for forming a top portion of the case (See page 1 lines 16-22), and a plurality of side walls connecting the base plate (2) and the top plate (5) (See figure 1). Figure 1 further teaches that the insert (1) is horizontally supported by the edges and vertically supported on the base plate (2). It further discloses a plurality of spacer elements (4) inserted within the case, at a distance from the insert between the cover and base plate (See figure 1). Figure 1 further teaches that the spacer elements (4) are supported on the inner surface of the cover plate and the base plate, and project into opening in the cover plate with the projection (See figure 2). Figure 2 further shows

the position of the spacer elements near by the top portion which can be understandable to weld the spacer elements in the cover plate. Figure 1 further teaches that the insert support (6) itself on the inner surface of the base plate. Figure 1 further teaches that the insert support is attached to the base plate, which can be understandable that the insert is also attached to the base plate. Figure 1 further teaches that the insert (1) is releasably inserted into the case, in destruction-free manner. Figure 1 further teaches that the insert projects beyond the cover plate and that its upper edge lies essentially in a plane with the upper surface of that cover plate arrangements. It further teaches that the mold box and transfer plate or base plates are made of metal (See page 6, lines 19-24), which can be understandable that the top plate is also made of metal. Figure 1 further teaches that the insert (1) that projects beyond the cover plate (5) has an under cut and that an edge of the sheet metal cover (5) engages in the under cut. It further teaches that the elastic damping material inserted between the insert support (6) and insert (1) (See Page 1 lines 14-18; figures 2A, 2B). Figure 1 further teaches that the insert (1) has a slot for accommodating a core holder (3), where in the core holder (3) is supported downward in the slot of the insert.

10. Claim 8 is objected because claim 8 discloses a process limitation as an apparatus limitation for producing a block. It fails to further limit the subject matter. As we know that with regard to the claim recitation regarding the method of forming the apparatus such relate only to the method of producing the claimed apparatus, which does not impart the patentability to the apparatus claim. Note that determination of patentability is based on the product apparatus itself, *In re Brown*, 173 USPQ 685, 688, and the patentability of the product does not depend on its method of production, *In re Pilkington*, 162 USPQ 145, 147, *In re Thorpe*, 227 USPQ 964 (CAFC 1985). Note also that it is Applicant's burden to prove that an unobvious difference exists, *In re Marosi*, 218 USPQ 289, 292, 293 (CAFC 1983), and Applicant must show that different methods of manufacturing product having inherently different characteristics, *Ex Parte Skinner*, 2 USPQ2d 1788, *See MPEP 2113*.

11. Henry ('619) discloses all claimed structural limitations as discussed above. It further teaches that the top plate of the case having plurality of recesses, but fails to teach or suggest that the bottom plate comprises plurality of recesses.

12. Kayser ('316) discloses sealing apparatus comprises top plate (1), bottom plate (5), insert (2) and insert support (7), wherein top plate and

bottom plate having a plurality of holding means (3,4) as a plurality of depressions for holding insert (2) (see figure 2).

13. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Henry ('619) b providing a plurality of recesses or depressions in the bottom plate for accommodating an insert within the insert support during the molding operation as suggested by Kayser ('316).

14. Henry ('619) and/or Kayser ('316) disclose all claimed structural limitations as discussed above, but fail to teach or suggest that cover plate is bent in U- shape.

15. McCormick ('396) discloses an apparatus for making capsules shaped product which comprises base plate (10), insert (12) and a cover plate (14), wherein the base plate (10) and cover plate are made of sheet metal. (See col.3 lines 8-10, 49-51). It further teaches that the center art of the cover plate is bent in U-shape, and engage into the base plate with the opening of the U-shapes facing one another, offset by 90 degree (See figure 1).

16. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Henry ('619) and/or Kayser ('316) by providing a center part of the cover plate is bent in U-shape

for engaging the cover plate to the bottom plate for providing a positive lock means during the molding operation as suggested by McCormick ('396).

17. Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry (EP 0 182 619 A2) in view of Kayser (WO 86/06316) as applied to claims 10-16 above, and further in view of McCormick (U S Patent No. 3,674,396).

18. Henry ('619) and/or Kayser ('316) disclose all claimed structural limitations as discussed above, wherein Henry ('619) further teaches about damping means, but fails to teach or suggest a relief structure in the side walls.

19. McCormick ('396) discloses an apparatus for making capsules shaped product which comprises base plate (10), insert (12) and a cover plate (14) (See figure 1), wherein the base plate (10) comprises a plurality of side walls (18, 19) having a relief structure for holding the case (12) in a corresponding a counter relief of a base (10), wherein the relief structure comprises a groove milled into a side wall (see figure 1).

20. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Henry ('619) and/or Kayser ('316) by providing a relief structure into the side walls for holding a

case in a corresponding counter relief of a molding frame as suggested by McCormick ('396).

21. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry (EP 0 182 619 A2) in view of Kayser (WO 86/06316) further in view of Huber et al. (U S Patent No. 3,932,098).

22. Henry ('619) discloses an apparatus for manufacturing a building block which comprises a mold box (1) as an insert for determining a contour of a molded block such as a rectangular shape; and an insert support (6) for holding an insert (1) (See figure 1). It further teaches that the mold box (1) means an insert is vibrated, which can be understandable that the apparatus comprises a vibrated base plate (2) (See page 1, lines 19-22). It further teaches that the insert support (6) comprises a rigid twist resistant hollow case having a base plate (2) for forming a bottom portion of the case and cover plate (5) for forming a top portion of the case (See page 1 lines 16-22), and a plurality of side walls connecting the base plate (2) and the top plate (5) (See figure 1). Figure 1 further teaches that the insert (1) is horizontally supported by the edges and vertically supported on the base plate (2). It further discloses a plurality of spacer elements (4) inserted within the case, at a distance from the insert between the cover and base plate (See figure 1). Figure 1 further teaches that the spacer elements (4) are supported on the

inner surface of the cover plate and the base plate, and project into opening in the cover plate with the projection (See figure 2). Figure 2 further shows the position of the spacer elements near by the top portion which can be understandable to weld the spacer elements in the cover plate. Figure 1 further teaches that the insert support (6) itself on the inner surface of the base plate. Figure 1 further teaches that the insert support is attached to the base plate, which can be understandable that the insert is also attached to the base plate. Figure 1 further teaches that the insert (1) is releasably inserted into the case, in destruction-free manner. Figure 1 further teaches that the insert projects beyond the cover plate and that its upper edge lies essentially in a plane with the upper surface of that cover plate arrangements. It further teaches that the mold box and transfer plate or base plates are made of metal (See page 6, lines 19-24), which can be understandable that the top plate is also made of metal. Figure 1 further teaches that the insert (1) that projects beyond the cover plate (5) has an under cut and that an edge of the sheet metal cover (5) engages in the under cut. It further teaches that the elastic damping material inserted between the insert support (6) and insert (1) (See Page 1 lines 14-18; figures 2A, 2B). Figure 1 further teaches that the insert (1) has a slot for accommodating a

core holder (3), where in the core holder (3) is supported downward in the slot of the insert.

23. Claim 8 is objected because claim 8 discloses a process limitation as an apparatus limitation for producing a block. It fails to further limit the subject matter. As we know that with regard to the claim recitation regarding the method of forming the apparatus such relate only to the method of producing the claimed apparatus, which does not impart the patentability to the apparatus claim. Note that determination of patentability is based on the product apparatus itself, *In re Brown*, 173 USPQ 685, 688, and the patentability of the product does not depend on its method of production, *In re Pilkington*, 162 USPQ 145, 147, *In re Thorpe*, 227 USPQ 964 (CAFC 1985). Note also that it is Applicant's burden to prove that an unobvious difference exists, *In re Marosi*, 218 USPQ 289, 292, 293 (CAFC 1983), and Applicant must show that different methods of manufacturing product having inherently different characteristics, *Ex Parte Skinner*, 2 USPQ2d 1788, See *MPEP 2113*.

24. Henry ('619) discloses all claimed structural limitations as discussed above. It further teaches that the top plate of the case having plurality of recesses, but fails to teach or suggest that the bottom plate comprises plurality of recesses.

25. Kayser ('316) discloses sealing apparatus comprises top plate (1), bottom plate (5), insert (2) and insert support (7), wherein top plate and bottom plate having a plurality of holding means (3,4) as a plurality of depressions for holding insert (2) (see figure 2).

26. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Henry ('619) b providing a plurality of recesses or depressions in the bottom plate for accommodating an insert within the insert support during the molding operation as suggested by Kayser ('316).

27. Henry ('619) and/or Kayser ('316) disclose all claimed structural limitations as discussed above, but fail to teach or suggest a plurality of bracing elements.

28. Huber et al. ('098) discloses bracing elements (98) rest against the side wall of the case from the inside and brace them against the counter surface of flange arrangement from the outside with a positive lock. It further comprises the flange rails (44) are firmly connected with the insert support, on the opposite side walls for clamping into the molding machine (See figure 2, and col.4 lines 38 – 41). It further discloses the junction plate (98) is connected with the side walls as well as the base plates, in the interior of the insert support (See col.6 lines 64 – 68).

29. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Henry ('619) and/or Kayser ('316) by providing a plurality of bracing elements for bracing the side walls against the counter surface of a flange arrangement during the casting the product as suggested by Huber et al. ('098).

Conclusion

30. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIMPLE N. BODAWALA whose telephone number is (571)272-6455. The examiner can normally be reached on Monday - Friday at 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra N. Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yogendra N Gupta/
Supervisory Patent Examiner, Art Unit

Dimple N Bodawala
Examiner

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/D. N. B. /
Examiner, Art Unit 1791